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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|-------------------------|----------------------------|------------------|
| 09/605,602 | 06/28/2000 | Srivatsan Parthasarathy | MS146909.1 | 5788 |
| 27195 | 7590 | 04/10/2006 | | |
| AMIN & TUROCY, LLP 24TH FLOOR, NATIONAL CITY CENTER 1900 EAST NINTH STREET CLEVELAND, OH 44114 | | | EXAMINER ARANI, TAGHI T | |
| | | | ART UNIT 2131 | PAPER NUMBER |
| DATE MAILED: 04/10/2006 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|---|--------------------------------------|---|--|
| Advisory Action Before the Filing of an Appeal Brief | Application No. 09/605,602 | Applicant(s) PARTHASARATHY ET AL. | |
| | Examiner Taghi T. Arani | Art Unit 2131 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 3/20/3006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1,3-9,11,12,14-19 and 21-24.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☒ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see below.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
 13. ☐ Other: _____.

Taghi T. Arani
 Primary Examiner
 Art Unit 2131
Taghi T. Arani
 3/30/06

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed 3/01/2006 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because an information disclosure statement shall be considered by the Office if filed after the period specified in 37 CFR 1.97, provided that the information disclosure statement is filed before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311.

Response to Arguments

Applicant's arguments filed 3/20/2006 have been fully considered but they are not persuasive. As per independent claims 1, 9, 12 and 19, Applicant, on page 7, third paragraph of the REMARKS, has argued that Drews reference does not teach "providing an assembly with a manifest that contains the public key" because "Drews does not provide the public key with the actual boot image during transmission. Rather, the signed manifest that contains the public key for verification and the boot image are sent to the target local computer separately".

The examiner responds that providing the public key with the assembly "during transmission" is not claimed, emphasis added by the examiner. Furthermore, downloading the signed manifest (containing the public key) corresponding to the boot image (as taught by Drews) concurrent in time with boot image (the assembly) reads on the claimed "providing the assembly with a manifest that contains the public key", because the claim does not require providing the assembly with the manifest during the same transmission. According to the MPEP 904.01, the Examiner is obligated to give each term in the claims its broadest reasonable interpretation. See also *In re Morris*, 127 F.3d 1048, 44 USPQ2d 1023 (Fed. Cir. 1997). The

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Examiner notes the Applicant of the case (Intervet America Inc. v. Kee-Vet Laboratories Inc., 12 USPQ2d 1474 (CA FC 1989)) which discusses improperly construing a limitation of claim not limited by its recitation in the claim nor limited in the written description and the case (Bell Atlantic Network Services Inc. v. Covad Communications Group Inc., 59 USPQ2d 1865 (CA FC 2001)) which the court affirmed summary judgment of claim construction using the specification as guidance in interpreting the claim.

Applicant further argues that Drews does not teach the claimed feature (page 8, last paragraph of the REMARK) "referencing the assembly with a manifest that contains a token of the public key that is computed by a hash function" because the Drews' signed manifest comprises a digital certificate that includes a public key of the source providing software to the local program" and that "Drews verifies the boot image by referencing with the public key within the digital certificate rather than a token of the public key". The examiner responds that Drews' digital certificate containing the public key corresponds to the claimed token of the public key and that signed manifest (i.e. signed digest or hash of manifest comprising the digital certificate) reads on the claimed token of the public key that is computed by a hash function. Applicants still have failed to identify specific claim limitations, which would define a patentable distinction over prior arts.

Therefore, the examiner asserts that cited prior art does teach or suggest the subject matter recited in independent claims 1, 9, 12, and 19 and in subsequent dependent claims 3-8, 11, 14-18, and 21-24. Accordingly, rejections for claims 1, 3-9, 11-12, 14-19 and 21-24 are respectfully maintained.

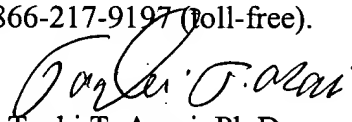
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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Taghi T. Arani whose telephone number is (571) 272-3787. The examiner can normally be reached on 8:00-5:30 Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Taghi T. Arani, Ph.D.
Primary Examiner
Art Unit 2131
3/30/06